

BOARD OF APPEALS CASE NO. 5201

APPLICANT: Patricia Almony

REQUEST: Special Exception to allow
pet grooming in the Agricultural District;
3110 Dry Branch Road, White Hall

HEARING DATE: January 23, 2002

* BEFORE THE

* ZONING HEARING EXAMINER

* OF HARFORD COUNTY

* Hearing Advertised

* Aegis: 11/28/01 & 12/5/01

* Record: 11/30/01 & 12/7/01

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Patricia Ann Almony, is seeking a special exception to permit pet grooming in an AG/Agricultural District, pursuant to Section 267-53H(4) of the Harford County Code.

The subject parcel is located at 3110 Dry Branch Road, White Hall, Maryland 21161 and is more particularly identified on Tax Map 15, Grid 2A, Parcel 83. The parcel consists of 83.4± acres, is zoned AG/Agricultural and is entirely within the 4th Election District.

The Applicant, Patricia Ann Almony, appeared and testified that she intends to convert one half of her two car garage to a pet grooming facility. Parking spaces will be provided on the existing driveway. She intends to operate the grooming business alone, without other employees, as a source of income. She has training as a pet groomer and admits that this would be her first solo grooming operation. She intends to operate her business 8 hours per day, 5 days per week. The maximum number of dogs groomed per day is eight (8). She intends to use word of mouth advertising and publish an ad in the St. James Church bulletin.

The Applicant stated that her house is 200 feet away from Dry Branch Road and the closest house to hers is 400 feet away. The parcel is three-quarters of a mile from Deer Creek. Her parking area can easily accommodate 4 vehicles and the operation will be completely enclosed within the existing garage. No animals will be kept overnight except her own pets and she does not intend any type of animal boarding or kenneling on the parcel. The Applicant intends no employees and did not feel any nuisance would be created by fumes, odors, dust gas, etc.

Case No. 5201– Patricia Almony

The special exception use is compatible with the Master Plan. The pet grooming business will generate several trips per day to and from the property but the Applicant did not feel as though the 8 potential visitors to her property would create any nuisance. The witness did not feel that any adverse impacts would result from approval of her special exception to operate a pet grooming facility on her property.

Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning and testified that the Department recommended approval of the subject request. Mr. McClune compared the proposed use to both the specific Code requirements of 267-53H(4) and 267-9I and stated:

Section 267-53H(4):

“Pet Grooming. This use may be granted in the AG, VB, B1 and B2 Districts, provided that:

The subject property and the surrounding area is zoned AG/Agricultural.

(a) The activity takes place inside a completely enclosed building.

The Applicant states that the pet grooming service will be performed within a building and due to the physical features of the property, the use should not have an adverse impact on the neighboring properties.

(b) No animals may be kept overnight, except those owned by the proprietor.”

The Applicant states that no animals brought to the property for grooming will remain on the property over night.

Section 267-9I:

(1) The number of persons living or working in the immediate area.

This area of the County is rural in nature with no major residential developments. Many of the farms in the area are participating in the State or County’s Agricultural Preservation Programs, including the subject site. There are several large single-family lots that have been developed along Dry Branch Road. The proposal should have no impact on the surrounding farms or residential uses.

(2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

Case No. 5201– Patricia Almony

Access to the Applicant's property is from Dry Branch Road, which is a County maintained road. The existing improvements are approximately 500 to 600 feet to the west of Norrisville Road (Md. 23), which is a State owned and maintained road. The limited number of trips generated as a result of the proposed business should not have any impact on Dry Branch Road or Norrisville Road. The Department of Planning and Zoning is recommending that the business be restricted to the Applicant and one employee.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

The proposal is a use that is permitted in the Agricultural District with Board approval. The use should not adversely impact the community.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The proposed pet grooming business should have little impact on the neighborhood with respect to the issues listed in this section.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The County's local Sheriffs Department and the Maryland State Police will provide police protection. Fire protection will be primarily from the Norrisville and Jarrettsville Volunteer Fire Departments. Water and sewer will be provided by a private on-site well and septic system. The Applicant will be required to obtain a private hauler to dispose of trash.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The proposal is recognized by the Code as a use that is compatible with other uses in the Agricultural District, provided certain requirements can be met. The Applicant meets the requirements pursuant to the Code for proposed special exception.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

There are local churches in the area; however, they should not be impacted by the request.

Case No. 5201– Patricia Almony

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal is consistent with the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

There are no environmental features, which will be impacted by this request.

- (10) *The preservation of cultural and historic landmarks.*

Not applicable to this request.

Mr. Art Crouther appeared in opposition to the request. Mr. Crouther lives at 3132 Dry Branch Road. The witness stated that he moved to this area of Harford County to escape noise and congestion. He objects to the Application and proposed use because he thinks traffic will increase to unacceptable levels and noise will be bothersome. Upon cross examination, Mr. Crouther was asked whether the traffic and noise generated by the Maryland Beagle Club, located just up Dry Branch Road was bothersome and he said it was not. In fact the witness indicated he was unaware the beagle club was even there.

CONCLUSION:

The Applicant, Patricia Ann Almony, is seeking a special exception to permit pet grooming in an AG/Agricultural District, pursuant to Section 267-53H(4) of the Harford County Code.

Section 267-53H(4) of the Harford County Code provides:

“Services.

- (4) Pet grooming. This use may be granted in the AG, VB, B1 and B2 Districts, provided that:
- (a) The activity takes place inside a completely enclosed building.
 - (b) No animals may be kept overnight, except those owned by the proprietor.”

Case No. 5201– Patricia Almony

The standard to be applied in reviewing a request for special exception use was set forth by the Maryland Court of Appeals in Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981) wherein the Court said:

“...The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible *absent any facts or circumstances negating the presumption*. The duties given the Board are to judge whether the *neighboring properties in the general neighborhood would be adversely affected* and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Whereas, the Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. (Citations omitted). These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied.” (Emphasis in original).

The Applicant’s proposal meets or exceeds the specific requirements of the Code. It will be operated completely within an enclosed area and no animals will be kept overnight.

Based on the testimony of the Applicant and the Department of Planning and Zoning, the Hearing Examiner concludes that this proposed use at this proposed location will not generate impacts above and beyond those normally associated with a pet grooming operation regardless of where it is located in the AG District. In fact, because of the size of the property, distances from neighboring properties and small scale of the operation proposed, this pet grooming operation will probably have fewer impacts associated with it than other permitted pet grooming operations found elsewhere in Harford County.

Case No. 5201– Patricia Almony

The Hearing Examiner recommends approval of the Applicant's request subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections for the building and use.
2. The Applicant shall provide a minimum of four (4) parking spaces for the business.
3. The hours of operation shall be limited to 8 a.m. to 5 p.m., Monday through Saturday.
4. The approval shall be limited to the Applicant and shall terminate upon sale of the property.
5. Only one employee other than family members residing in the dwelling shall be permitted.

Date: FEBRUARY 11, 2002

William F. Casey
Zoning Hearing Examiner